

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SANTANA SERRANO,

Petitioner,

vs.

No. CV 18-00740 JB/KRS

ROBERTA ORTIZ-LUCERO,
WARDEN,

Respondent.

**ORDER DENYING MOTIONS FOR APPOINTMENT OF COUNSEL
AND GRANTING LEAVE TO PROCEED UNDER 28 U.S.C. § 1915**

THIS MATTER is before the Court on the request for appointment of counsel (Doc. 3) and Motion for Appointment of Counsel (Doc. 8) filed by Petitioner Santana Serrano. The Court will deny the Motions. The decision whether to request assistance of counsel rests in the sound discretion of the Court. *Beaudry v. Corrections Corp. of America*, 331 F.3d 1164, 1169 (10th Cir.2003); *MacCuish v. United States*, 844 F.2d 733, 735 (10th Cir.1988). In determining whether to appoint counsel, the district court should consider the merits of the litigant's claims, the nature and complexity of the factual and legal issues, and the litigant's ability to investigate the facts and to present his claims. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir.2004). The Court has reviewed the Petition and subsequent filings in light of the foregoing factors. Petitioner appears to understand the issues in the case and to be representing herself in an intelligent and capable manner. *See Lucero v. Gunter*, 52 F.3d 874, 878 (10th Cir. 1995). Accordingly, the Court will deny Petitioner's requests for appointment of counsel.

Also before the Court is Petitioner's Application to Proceed in District Court Without Prepaying Fees or Costs. (Doc. 7). The Court notes that Petitioner has paid the initial \$5 filing fee

for this proceeding and has submitted an Application that complies with the requirements of 28 U.S.C. § 1915. Accordingly, the Court will grant the application.

IT IS ORDERED:

(1) the request for appointment of counsel (Doc. 3) and Motion for Appointment of Counsel (Doc. 8) filed by Petitioner Santana Serrano are **DENIED**; and

(2) the Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. 7) filed by Petitioner Serrano is **GRANTED**.

A handwritten signature in cursive script, reading "Kevin Sweazey".

UNITED STATES MAGISTRATE JUDGE